



PLANNING & DEVELOPMENT
SERVICES DEPARTMENT

CITY OF FRISCO

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August 12, 2009

TO: Applicant

FROM: Scott L. Ingalls, AICP *SLI*
Development Coordinator

SUBJECT: Results of the Planning & Zoning Commission, August 11, 2009

Request to: Comprehensive Zoning Ordinance Amendment (ZA09-0004)
Applicant(s): City of Frisco

Description:

Request to amend the Comprehensive Zoning Ordinance pertaining to regulations for alcohol sales. MW

APPROVED: 6-0 DENIED: _____ TABLED: _____

ACTION:

The Planning & Zoning Commission approved the recommendation amending the Comprehensive Zoning Ordinance as follows:

Article II

3.03 Schedule of Uses (Use Chart)

Section 3.03(F) Retail Uses	O-1	O-2	NS	R	O-T-C	H	C-1	C-2	C-O	IT	I	Preston Road Overlay District							
	Office 1	Office 2	Neighborhood Services	Retail	Town	Highway Commercial	Commercial 1	Commercial 2	Corporate	Office Information & Technology	Industrial	US 380	Gateway	Corridor	Main Street	Retail	SA	Corridor	121

Alcoholic Beverage Establishment		26		26	26	26	26	26	26	26										
Beer & Wine Package Sales			31	31	31	31	31	31												

Private Club		32		32	32	32	32	32	32										
Restaurant or Cafeteria		25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25

Section 3.03(G) Service Uses	O-1	O-2	NS	R	O-T-C	H	C-1	C-2	C-3	IT	I	Preston Road Overlay District						
	Office 1	Office 2	Neighborhood Services	Retail	Town	Highway Commercial	Commercial 1	Commercial 2	Corporate	Office Information & Technology	Industrial	300	Gateway	Corridor	Main Street	Retail	SA Corridor	12T Gateway

Alcoholic Beverage Establishment		26		26	26	26	26	26	26	26									
Beer & Wine Package Sales			31	31	31	31	31	31											
Private Club		32		32	32	32	32	32	32										
Restaurant or Cafeteria		25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25

Section 3.04 Conditional Development Standards

25. Restaurant or Cafeteria:

- ~~No drive-through restaurants permitted.~~
- ~~Restaurants are permitted to sell alcohol by right if the subject property was located within the City limits as of February 2, 2002. For property annexed into the City after February 2, 2002, a restaurant must obtain a specific use permit for a Private Club for the ability to sell alcohol (see Private Club regulations).~~
- ~~A restaurant that sells alcohol shall not be located closer than 300 feet to a church and/or public hospital measured along the property lines of the street fronts from front door to front door, and in direct lines across intersections.~~
- ~~A restaurant that sells alcohol shall not be located closer than 300 feet to a public or private school measured in a direct line from property line to property line, and in direct lines across intersections.~~
- ~~The distance between a restaurant that sells alcohol and a private school can be increased to 1,000 feet if the City Council receives a request from the governing body of the private school to do so.~~
- ~~Restaurants that derive more than 75% of their revenue from the sale of alcohol are permitted only by specific use permit.~~

25. Restaurant or Cafeteria:

- (a) A Restaurant or Cafeteria is permitted by specific use permit in the NS zoning district and is permitted by right in the R, OTC, O-2, C-1, C-2, CO, H, IT, and I zoning districts.
- (b) Except as otherwise provided, restaurants with drive-through are permitted in any zoning district where a Restaurant or Cafeteria is permitted. Restaurants with drive-through are not permitted in the O-2 zoning district and are only permitted in the Preston Road Overlay District subject to the conditional standards in Article III, Section 2 (4.05) B.
- (c) Restaurants or Cafeterias that sell alcohol shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended and any applicable local option elections.
- (d) Except along Main Street in the OTC zoning district, a Restaurant or Cafeteria that sells alcohol shall not be located within the following:
 - A. Three hundred (300) feet from a church, public hospital, and/or public school.
 - B. One thousand (1000) feet from a public school if the City Council receives a request for this additional spacing requirement from the school district, and the City Council adopts such additional spacing requirements by resolution.
- (e) Measurement for the distance between a Restaurant or Cafeteria where alcohol beverages are sold and a church or public hospital shall be along the property lines of the street fronts, from front door to front door, and in a direct line across intersections.
- (f) Measurement for the distance between a Restaurant or Cafeteria where alcoholic beverages are sold and a public school shall be:
 - A. In a direct line from the property line of the public school to the property line of the place of business, and in a direct line across intersections; or

- B. If the restaurant that sells alcohol is located on or above the fifth story of a multistory building, in a direct line from the property line of the public school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the Restaurant or Cafeteria is located.
- (g) If a Restaurant or Cafeteria receives seventy-five percent (75%) or more of its gross revenue on a quarterly basis from the sale or service of alcoholic beverages for on-premise consumption, the use will no longer qualify as a Restaurant or Cafeteria and will be classified and regulated by the City as an alcoholic beverage establishment under the Frisco Comprehensive Zoning Ordinance."

26. ~~Restaurant or Cafeteria:~~

~~Restaurants with a drive through are permitted in the Preston Road Overlay District subject to the conditional development standards in Article III, Section 3(4.05)(B).~~

26. Alcoholic Beverage Establishment

- (a) Alcoholic Beverage Establishments shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended and any applicable local option elections.
- (b) An alcoholic beverage establishment is permitted only by specific use permit in O2, R, OT-C, H, C1, C2, CO, and IT zoning districts.
- (c) An alcoholic beverage establishment shall not be located within:
 - A. 800 feet from a church, public hospital, public school, private school, and/or residential zoning district. For this purpose, residential zoning districts shall include, but is not limited to properties that are zoned Neighborhood Service and residential Planned Development Districts.
 - B. 1000 feet from a public school if the City Council receives a request for this additional spacing requirement from the school district, and the City Council adopts such additional spacing requirements by resolution; and

- C. 1000 feet from a private school if the City Council receives a request for this additional spacing requirement from the board of the private school, and the City Council adopts the additional spacing requirements by resolution.
- (d) Measurement for the distance between an alcoholic beverage establishment and the uses listed above or the nearest residential zoning district shall be in a straight line from the nearest property line of the lot where the alcoholic beverage establishment is located, without regard to intervening structures or objects, to the nearest property line of the lot where the church, public hospital, public school, and/or private school is located.
- (e) If a use were operating as a private club in accordance with Frisco's Comprehensive Zoning Ordinance and pursuant to a valid specific use permit before _____, but if fails to comply with the new regulations set forth in this Paragraph, that private club shall be allowed to continue operating in the same location subject to the continued rights of the City Council to terminate the use's specific use permit, in accordance with the law.

31. ~~Beer & Wine Package Sales (ZA02-0024, ZA07-0003):~~

- ~~a) Shall not be located closer than three hundred (300) feet to a church and/or public hospital measured along the property lines of the street fronts from front door to front door and in direct lines across intersections.~~
- ~~b) Shall not be located closer than three hundred (300) feet to a public or private school measured in a direct line from property line to property line, and in direct lines across intersections.~~
- ~~c) The distance between a Beer & Wine Package Sales Establishment and a private school can be increased to one thousand (1,000) feet if the City Council receives a request from the governing body of the private school to do so.~~
- ~~d) Beer sales are not permitted in residential areas. Residential areas include properties that are zoned Neighborhood Service or a Planned Development that allows vertical mixed use developments with a residential component, because these zoning districts are part of the neighborhood(s) within which they are located.~~
- ~~e) Beer & Wine Package Sales establishments that derive more than seventy-five (75) percent of their gross revenue from the sale of beer and/or wine:

 - ~~1. Are permitted only by Specific Use Permit in the R, H, C-1, and C-2 zoning districts;~~~~

- ~~2. Shall not be located closer than one thousand five hundred (1,500) feet from another Beer & Wine Package Sales Establishment that derives more than seventy-five (75) percent of their gross revenue from the sale of beer and/or wine, measured building-to-building (or outer wall of the lease space) in a straight line;~~
- ~~3. Shall not be located closer than eight hundred (800) feet from the building to the property line of a residential zoning district; and~~
- ~~4. Shall not be located closer than one thousand five hundred (1,500) feet from the property line of a City park, or the property line of a property owned by a church, public hospital, public or private school, public or private college/university, rehabilitation care institution, or child or adult day care, measured in a straight line from front door of the establishment to the nearest property line of a residential zoning district, City park, church, public or private hospital, public or private school, public or private college/university, rehabilitation center, or child or adult day care."~~

31. Package Sales:

- (a) A Package Sales establishment shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.
- (b) A Package Sales establishment is permitted only in the R, H, C-1, and C-2 zoning districts.
- (c) Beer sales are not permitted in residential zoning districts.
- (d) In the OTC zoning district:
 - A. Package Sales establishments are only permitted in the OTC zoning district, between North and South County Road and the BNSF Rail Line;
 - B. Only two (2) Package Sales establishments may be located in the OTC, and only one (1) Package Sales establishment may be located on any given block.
- (e) A Package Sales establishment shall not be located within the following:
 - A. Three hundred (300) feet from a church, public hospital, public school, and/or private school. But, a Package Sales establishment may be located within three hundred (300)

- feet of a private school if minors are prohibited from entering the package store.
- B. One thousand (1000) feet from a public school if the City Council receives a request for this additional spacing requirement from the school district, and the City Council adopts such additional spacing requirements by resolution.
 - C. One thousand (1000) feet from a private school if the City Council receives a request for this additional spacing requirement from the board of the private school, and the City Council adopts the additional spacing requirements by resolution. But, the City Council may not adopt this additional spacing required if minors are prohibited from entering the Package Sales establishment.
- (f) Measurement of the distance between the Package Sales establishment and the church or public hospital shall be along the property lines of the street fronts, from front door to front door, and in a direct line across intersections. Measurement for the distance between the Package Sales establishment and a public or private school shall be:
- A. In a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
 - B. If the Package Sales establishment is located on or above the fifth (5th) story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the Package Sales establishment is located."

32. ~~Restaurant or Cafeteria~~ (ZA07-0003):

Restaurants that sell alcohol shall be subject to compliance with the Texas Alcoholic Beverage Code, as it exists or may be amended, and to the following development criteria:

- a) ~~Restaurants are permitted by specific use permit in the NS zoning district and are permitted by right in the R, OTC, H, C-1, C-2, CO, IT, and I zoning districts. Restaurants are permitted to sell alcohol by right if the subject property was located within the City limits as of February 2, 2002. For property annexed into the City after February 2, 2002, a restaurant must obtain a specific use permit for a Private Club for the ability to sell alcohol (see Private Club regulations).~~
- b) ~~A restaurant that sells alcohol shall not be located closer than three hundred (300) feet to a church and/or public hospital measured along the property lines of the street fronts from front door to front door, and in direct lines across intersections. This separation requirement does not apply to restaurants located along Main Street in the OTC District.~~
- c) ~~A restaurant that sells alcohol shall not be located closer than three hundred (300) feet to a public or private school measured in a direct line from property line to property line, and in direct lines across intersections. This separation requirement does not apply to restaurants located along Main Street in the OTC District.~~
- d) ~~The distance between a restaurant that sells alcohol and a private school can be increased to one thousand (1,000) feet if the City Council receives a request from the governing body of the private school to do so. This does not apply to restaurants located along Main Street in the OTC District.~~

~~Restaurants that derive more than seventy-five (75) percent of their revenue from the sale of alcohol are not permitted in the NS zoning district and are permitted by specific use permit in the R, OTC, H, C-1, C-2, CO, IT, and I zoning districts."~~

32. Private Club

- (a) Private clubs shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended and any applicable local option elections.
- (b) A private club is permitted only by specific use permit in O2, R, OT-C, H, C1, C2, CO, and IT zoning districts.
- (c) A private club shall not be located within:
 - A. 800 feet from a church, public hospital, public school, private school, and/or residential zoning district. For this purpose, residential zoning districts shall include, but is not limited to

properties that are zoned Neighborhood Service and residential Planned Development Districts.

- B. 1000 feet from a public school if the City Council receives a request for this additional spacing requirement from the school district, and the City Council adopts such additional spacing requirements by resolution; and
- C. 1000 feet from a private school if the City Council receives a request for this additional spacing requirement from the board of the private school, and the City Council adopts the additional spacing requirements by resolution.
- D. Measurement for the distance between a private club and the uses listed above or the nearest residential zoning district shall be in a straight line from the nearest property line of the lot where the alcoholic beverage establishment is located, without regard to intervening structures or objects, to the nearest property line of the lot where the church, public hospital, public school, and/or private school is located.

Section 4.02 Definitions

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Alcoholic Beverage Establishment – any establishment that derives 75 percent or more of its gross revenue on a quarterly basis from the sale or service of alcoholic beverages, as defined in the Texas Alcoholic Beverage Code, as it exists or may be amended, for on-premise consumption.

...

Beer & Wine Package Sales (ZA01-0010) – An establishment engaged in the selling of beer and/or wine to the general public for off-site personal or household consumption and rendering services incidental to the sale of such goods.

...

Package Sales – An establishment principally for the retail sale of alcoholic beverages, as defined in the Texas Alcoholic Beverage Code as it exists or may

be amended, to the general public for off-premise consumption and rendering services that are incidental to the sale of such goods.

...

~~**Private Club** – An establishment providing social and dining facilities, as well as alcoholic beverage service, to an association of persons, and otherwise falling within the definition of, and permitted under the provisions of, that portion of Title 3, Chapter 32, Vernon's Texas Codes Annotated, Alcoholic Beverage Code, as the same may be hereafter amended, and as it pertains to the operation of private clubs.~~

Private Club – an establishment holding a private club permit under Chapter 32 or 33 of the Texas Alcoholic Beverage Code, as amended, that derives 35 percent or more of its gross revenue from the sale or service of alcoholic beverages for on-premise consumption and that is located within a dry area as defined in Title 6 (Local Option Elections) of the Texas Alcoholic Beverage Code, as amended,. Private Club does not include a fraternal or veterans organization, as defined in the Texas Alcoholic Beverage Code, as amended, holding a private club permit under Chapter 32 or 33 of the Texas Alcoholic Beverage Code, as amended,. A Private Club does not include the holder of a food and beverage certificate, as defined in the Texas Alcoholic Beverage Code, as amended,. Unless the person owning or operating the use supplies the building official with records to prove otherwise, an establishment holding a private club permit under Chapter 32 or 33 of the Texas Alcoholic Beverage Code, as amended, is presumed to derive 35 percent or more of its gross revenue from the sale or service of alcoholic beverages for on-premise consumption.

Article III

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Section 5.05 General Requirements of the Preston Road Overlay District

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Subsection F Parking

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6. Main building in-line restaurants may reduce their parking from one (1) space per 100 square feet of floor area to one (1) space per 200 square feet of floor area. This reduction is available for up to 10% of the main building's total floor area. This reduction is not available to Private Clubs and/or Alcoholic Beverage Establishments.

Article IV

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Section 4.07 Parking Requirements Based on Use

Alcoholic Beverage Establishments – One (1) parking space for each seventy-five (75) square feet of gross floor area.

Section 11.06 Circulation and Parking Requirements

...

- I. Main building in-line restaurants may reduce their parking from one (1) space per one hundred (100) square feet of floor area to one (1) space per two hundred (200) square feet of floor area. This reduction is available for up to 10% of the main building's total floor area. This reduction is not available to Private Clubs and/or Alcoholic Beverage Establishments.

MW/kj

cc:

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